

**COMMITTEE ON PUBLIC WORKS AND PURCHASING**  
(Standing Committee of Berkeley County Council)

**Chairman:** Mr. Robert O. Call, Jr., Council District No. 3

A **meeting** of the **COMMITTEE ON PUBLIC WORKS AND PURCHASING**, Standing Committee of Berkeley County Council, was held on **Monday, December 14, 2009**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 7:00 p.m.

**PRESENT:** Chairman Robert O. Call, Jr., Council District No. 3; Committee Member Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Dennis L. Fish, Council District No. 5; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; Committee Member Steve C. Davis, Council District No. 8; County Supervisor Daniel W. Davis, ex officio; Mr. Joshua Gruber, Assistance County Attorney; and Ms. Barbara B. Austin, Clerk of County Council.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Call called the meeting to order and asked for approval of minutes from the meetings of the Committee on Public Works and Purchasing held November 9, 2009 and November 23, 2009.

It was moved by Committee Member Pinckney and seconded by Committee Member Steve Davis to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

**A. Mr. John F. Hamer, CPPB, Director of Procurement**, Re: Best Value bid to provide an Excavator for the Berkeley County Roads & Bridges Department.

Mr. Hamer began, "Thank you Mr. Chairman. We did a Best Value bid for a hydraulic excavator for our Roads & Bridges Department and this is a fairly new bid to Council several times we've done this. Basically this is an Invitation to Bid between a bid and a proposal where you have cost as the major factor but you have other criteria in which you evaluate the bid. The part of the bid was a Total Life Cycle cost so we evaluated the cost based on 5 years 5,000 hours so if you look at the spreadsheet based on the cost Blanchard Machinery was the apparent low bidder with a Total Life Cost over the 5-year period of \$71,758. In conjunction with that we used five criteria to evaluate the whole bid process. We used cost as the major fact at 60%, then we used warranty a 5-year service agreement references and then any additional features that they provided. So using the Best Value part of the bid Blanchard also was ranked #1 and that's our recommendation to award the Best Value bid to Blanchard Machinery for a Total Life Cycle Cost of 5-year 5,000 hours at \$71,758.

Committee Member Callanan inquired, "I've gotten some calls and concerns about this and also a previous Vibratory Roller bid. What happened to the Vibratory Roller?"

Mr. Hamer replied, "Yeah, that was under the \$50,000 and Dan approved that. That did not have to come to Council because the total price was under \$50,000."

Committee Member Callanan responded, "Okay. Alright, you can follow up on that. And the other question – the concerns I had really is on the complexity of the bid package in that there were certain questions on there that seemed to apply only to certain manufacturers: Buy Backs and that sort of thing, and the issue I had is whether or not that – I've been told by a couple people that if they keep coming out for a thirty-some-thousand dollar – I'm talking about going back to the Vibratory Roller – for the \$30,000 whatever - a 41-page bid package was somewhat excessive and it may prevent us from actually getting the responses. How did we come up with – I know I requested to do a Total Life Cycle bid on this but I certainly, my goal was not to chase people away it was actually to take your issues of concern when you wanted to do the single-source contract, which was Total Life Cycle, and then combine it with the concerns of making sure that we get a competitive bidding process. That seemed like a fair thing but you know I have to agree when I was sent copies of similar requests from Charleston County and Berkeley County and showed the difference in the bid request packages, ours was I would have to say about ten times more complicated for them, so I was just wondering how the process was come about – do we use some other industry standard for Total Life Cycle or was it just simply something that we concocted on our own?"

Mr. Hamer responded, "We kind of put this on our own – we have used a Best Value before and usually Best Value is kind of like a service and since we actually were looking at this not only as a purchase of the equipment but also a service over a 5-year period, we felt like a Best Value so you could evaluate the service along with the cost so that's why we did a Best Value along with a Total Life Cycle Cost."

Committee Member Callanan responded, "Alright."

Mr. Hamer continued, "They're actually going to maintain the machine for 5 years, they're going to provide extended warranty, then they're going to provide a 5-year service agreement as long as it's funded each year by Council, and then that's the main part what the service you're looking at just the service part of it, you know. We felt like we need to evaluate it more than just cost cause if you had a cost and somebody's saying Greenville compared to somebody in Charleston definitely want somebody closer especially if they got to come here and service it or we got to take the machine to them..."

Committee Member Callanan responded, "Right, and I understand that and the logic behind it is essentially is that we're no longer buying a piece of machinery and driving it until it dies we're going to figure out what its, you know, ideal useful life is and then sell it at that point and then purchase another one so I understand the why we should be looking at other factors. The concern I have is to the extent that we're actually, that we're putting the process through where you know I was shown something and I may not be accurate but the individual names and

addresses of the service technicians and that sort of thing, I mean, that may violate a privacy for an existing company they may require them not to do it, I just don't, you know, how many, you know, how many staff do you have is a good enough question or me; the names of them is I think goes beyond that, so what I'm wondering is if we can actually see as an example for this one because this is the first one that I've seen, if Council can actually get copies of the actual what was responded to on this so that I can actually see, you know, if a company omitted a piece of information, you know, for example, their names or something like that or said we don't have a Buy Back program, we will not buy the piece of equipment back to you because our company doesn't have that, only one company that we know of actually has that, you know, then in that case I just wanted to make sure that – the most important thing is I want to make sure that we are being absolutely fair and we are getting the best price for the County and I don't want to chase away vendors because our bid package is somewhat intimidating and it you know could possibly chase 'em away, so..."

Mr. Hamer said, "Well, we did have 3 that bid on this. I did send it out to about 20 different vendors, so it was ... I did make sure we had it covered but 3 responded to this. I have to look back at my packet, I don't think I actually asked for names I just asked for certified technicians. I didn't ask them to specify the names."

Committee Member Callanan replied, "Okay, that might have been on the vibratory 'cause they sent me, someone sent me a copy of it and I went through it and that's one thing that stuck out in my head so..."

Mr. Hamer said, "I'm not asking for a specific name I just asked how many technicians are you know certified in this area."

Committee Member Callanan responded, "Okay."

Committee Member Schurlknight said, "John, first thing I want to do is commend you on this, on this bid package. I think y'all have done an excellent job with it as far as getting these points down, When we start taking about the warranty and the value the warranty brings also with the Buy Back, the technicians, the additional features. Now I understand you know we've talked about (inaudible) forward a lot of this stuff was put together from y'all's experience (inaudible) Roads & Bridges on the equipment, how it performed for us and we put a lot on the warranty side of it as far as building the bid package?"

Mr. Hamer replied, "I'm not sure I understand the question."

Committee Member Schurlknight responded, "What I was just saying was that when you came up with these points right here a lot of that was coming from our previous experiences."

Mr. Hamer responded, "If you'll look at that evaluation part of it with the points, cost (inaudible) points..."

Committee Member Schurlknight said, "Right."

Mr. Hamer continued, "...so whoever was the low one, which was Blanchard, got the maximum points and then the other one was, you know, I took that points divide it by the next one multiply it by 6 to come up with their points. The warranty – they all had the same, basically the same warranty so they all got the same points. The reason they didn't get 10 is because in case one of them gave us a better warranty than what we asked for then they would have got a higher points."

Committee Member Schurlknight said, "Even though not even taking into consideration the point system, Blanchard came in the lowest out of the three just on price itself?"

Mr. Hamer said, "They had the best score so they was (inaudible) number ranked firm that I would recommend to you, not only by cost but by the factors here, the five factors that we evaluated them by."

Committee Member Schurlknight asked, "Do you remember the number of people that this was sent out to or manufacturers? I know we received, I assume we received three back."

Mr. Hamer said, "Yes, three back. Hold on a second ... Jack, I think it was probably about 15-20 that's in our files that we had sent it to but I can get you that list also if you want that list of who we sent it to."

Committee Member Schurlknight said, "I was just curious of the number that it was sent out to."

Committee Member Fish asked, "I have a couple of questions. Number one, how long have we had that Komatsu, the old one, the 1999 one? Do you know how long we've had that?"

Mr. Hamer replied, "I'd have to look it up."

Committee Member Fish continued, "And also do you know how many hours were on that machine? Do you have any idea?"

Mr. Hamer responded, "I'll have to look at the bid package. Give me one second..."

Mr. Carson said, "About 7600 on the Komatsu."

Committee Member Fish said, "7600 hours?"

Mr. Carson said, "Yes sir."

Committee Member Fish queried, "We've had that ten years?"

Mr. Carson said, "Since 99."

Mr. Hamer said, "'99. It's a '99 model."

Committee Member Fish stated, "One of my concerns John on #2 if you take a look at the bid price, tax, extended warranty and service contract, two of the vendors – Blanchard and Linder – are almost identical. On the service contract there's a thousand dollar difference, trade-in value a thousand dollar difference. One of my concerns is why are we asking for Caterpillar, why are we buying a Caterpillar with a 5-year warranty and 5-year tradeback when the one we have has been for 10 years and 7,000, what happens in 5 years? Are we going, are we committed to buy another one in 5 years?"

Mr. Hamer responded, "That's when we're supposed to dispose of it, yes, um, part of Danny's plan I think when he first came (inaudible) about the standardization and sole source (inaudible) get a rotation of getting this equipment out in 5 years. You can see that, you know, we getting' 87,000 back on this Caterpillar, on the other one dispose of now we're only getting 17 back from Blanchard so, I mean, that's a big difference over a 5-year period. I think his plan is to try to rotate this equipment where it'll be less cost on maintenance and stuff to get it out, that way we have current equipment."

Committee Member Fish said, "I guess my concern is – the one you've got you've had 10 years and you've only got 7,000 hours on it. I would expect with this one in 5 years you'd have a whole lot less. Why would we get rid of a good piece of equipment that's hardly used? #1, why I'm objecting to this is that this could be smoke and mirrors guaranteed Buy Back. If we don't buy that equipment back we just threw away \$87,000 when in fact you compare the other 3 issues on that, then in fact, Linder comes in at about \$18,000 cheaper than Caterpillar and I'm looking at that because the warranty cost, the warranty contract, everything else are almost equal, and so this could be – but I'm concerned about because the call's that I'm getting' also from different vendors who did not bid on the package because they thought 41 pages was ludicrous at best, they've never seen a bid package, they chose not to bid. I agree with Mr. Callanan, I think we're limiting some vendors, #1. But #2, when you put what I'm calling smoke and mirrors by putting a Buy Back of \$87,000 that we may not exercise, then that does not become the best deal. And that's what concerns me – that we're not getting the lowest cost in reality."

Mr. Hamer responded, "I mean, that was the plan and I think Frank and Danny talked with y'all about trying to establish a rotation to get this equipment out because we have been keeping the equipment for awful long..."

Committee Member Fish interjected, "John, I understand that but the problem we have is that if the economy stays like it is today why would we be committing to spend another \$150,000 for a piece of equipment that's good? That's not good economics, and I'm just concerned that they're putting a (inaudible) number of \$87,000 guaranteed bid in that we may not exercise. That to me distorts the bid."

Mr. Hamer replied, "Well, what I see, Mr. Fish, is yeah in 5 years we can get \$87,000 back from this equipment; if we kept it 10 years then we might only get \$20,000 back for this piece of equipment."

Committee Member Fish asked, "What's our out-of-pocket cost to buy this equipment? If we were to buy that tomorrow, what's the out-of-pocket cost?"

Mr. Hamer said, "Right now, for us to buy it, um, the P.O would have to be for \$145,825."

Committee Member Fish said, "So in 5 years we go through another \$145,000 again when we in fact do not need to? That's my point."

Mr. Hamer replied, "Well, you would actually have that guaranteed Buy Back that you..."

Committee Member Fish said, "There again, yeah, we're guaranteed to spend another \$145,000 in 5 years. I'm concerned about that."

Committee Member Schurlknight asked, "John, do y'all have the maintenance records on that Komatsu that we've had for 10 years?"

Mr. Hamer responded, "I don't have that..."

Mr. Carson interjected, "We have the maintenance records, Mr. Schurlknight. One of the things I wanted to point out is the reason we're going through this is to establish what the equipment is worth. When we talked before we talked about what the equipment is worth at the end of a service life is greater with certain pieces of equipment and what we've done is go out to the marketplace and show you, this is what the marketplace says it's worth. That 10-year old Komatsu excavator is not going to last another 12 years. If it was 5-years old, you know, you're risking having down-time and repair costs and all those things. What we thought, the point that we tried to make and that Council accepted the last time we came before you, was the need to have a program in place so that we are not wearing it out, that we're not keeping it in the shop, that we're not just using it 'til it's ready to be buried in the ground, and this was the proof to go out to the marketplace and let the marketplace show you that. The question, one thing I think may be useful is that if you look at a 41-page bid package, if you also look at a bid package for a handheld Motorola radio that John has to go out on a bid package, probably 2/3 of those same documents are in that bid package, so it's not a burdensome process for a vendor who's in the business to put together all the answers to all those questions in that package because they deal with a lot of things."

Committee Member Callanan said, "Mr. Chairman?"

Committee Member Schurlknight, "Excuse me Mr. Chairman, I'm not quite finished Mr. Callanan. Frank, that was a good point that you brought up 'cause I know Council, you know we discussed this thing way back when about this trading out and getting' out from under this equipment before it got too old, before it was worn out and wasn't worth anything. I know we looked at the maintenance costs, what it cost us to maintain it, and also the resale value 'cause you get to a certain point you gonna have to keep and run it into the dirt and absorb all those

maintenance costs. That's what I'm sayin. When you lookin' at a guaranteed Buy Back of that we lookin' at bein' under warranty the whole time we have the machine and those are heavy costs right there just repairs, when it comes out of warranty. But if you look at the long run and the expenditures and I think that's what y'all have shown that y'all have looked at that and that's what we discussed a while back about the advantages of goin' to a short life cycle while we're under warranty and roll that equipment, sell it back and get another one and keep goin'. Have I missed the boat on this? Is that, Frank, isn't that what we talked about when y'all went back and got all this information for us?"

Mr. Carson replied, "Yes, sir. Let's, I guess, to Mr. Fish's point: if we went back out and we changed that to 10-years, you know at some point since you have to look at what is the number that we're gonna compare this with, you know – a Life Cycle Cost on any piece of equipment depreciation you look at the value at the end of that life or at some point in between, so I'm guessing it would stand to reason that if it's worth that much more at 5-years it's also gonna be worth that much more at 10-years which is where we are with the trade-in on the Komatsu."

Committee Member Schuriknight said, "Right. Exactly. I'd (inaudible) John went back and spent all this time for nothing and then it's right back in the same debate it was prior to (inaudible) a good plan when it comes to our capital improvements and when we want to roll (inaudible) all these high maintenance costs. Thank you."

Committee Member Call said, "Mr. Hamer, as I understand it we are trying to cycle this equipment while it still has some residual value before it's just wore like usually where you need to cover it up out at the landfill, and somewhat what we're trying to do here is – of course, we want to buy it as cheap as we can – but we may have to wait till the end of this thing for even more savings. Is that basically what this is bringing about?"

Mr. Hamer replied, "Yes sir. In 5 years you can turn that machine back in to the low bidder for \$87,000, put another bid out and do the same process..."

Committee Member Call interjected, "And there's no final arbiter like an auction that tells you what people are willing to pay you for a piece of equipment with a certain number of hours on it or whatever, and you can go to these websites and you can find out what this equipment is selling for today. So I think if we go this way it may cost us some more now but down the road we'll probably recoup it."

Mr. Hamer said, "Yes, sir, hopefully."

Committee Member Call asked, "Is there any other questions or..."

Committee Member Callanan commented, "The question I have is you keep talking about resale values. I see nowhere on here where you request information about resale values. What you're equating a resale value is a guaranteed Buy Back. Well, the fact of the matter is Blanchard is the only company that offers – I mean Caterpillar's the only company from my

understanding in talking to people that has a guaranteed Buy Back program in effect. What you should be talking about is resale value and what you do with resale value is you can actually look at these individual pieces of equipment from these individual companies and determine, in a 5-year period, how they are retaining their value. Guaranteed Buy Back is, I mean, you're putting an absolute value to create a competitive bid process on something that is not, that is not the resale value. The guaranteed Buy Back is not the projected resale value – that is only what they have agreed to Buy Back and certain companies have better Buy Back programs than others. If you use – I'm sure the data is out there somewhere, on govbid.com or something to that, or that, what's that auction site that I'm thinking of...

Mr. Hamer said, "Gov deals."

Committee Member Callanan continued, "...govdeals.com where you can go out and you can, you can get historical data to determine what is – I mean, you do this with cars – what particular models retain their value over time and that is valuable information. Buy Back, I don't think, is viable information because they may be (inaudible) simply as a company we don't, they may be saying we don't buy back a piece of equipment, we don't guarantee a Buy Back, so they put a throw-out number there like, which I'm guessing Linder did, for \$48,000 because they say look, we don't have the program but if we did this is what we'd do it for. What you should be using is a value based on the projected depreciation of the particular model in that 5-year period. I just think that is the information you need, not the guaranteed Buy Back especially since only that one company actually, from my understanding, has that program in effect. And just one other question, if I can and I'll let Steve... Under the previous bid proposals that we had for this, if we were to send it out to 20 people, approximately how many bids would be get back? Would we get back more than three?"

Mr. Hamer responded, "Probably so, yes."

Committee Member Callanan replied, "You see, that's my problem. We are in fact by doing this, we are actually removing competition versus increasing it and all I wanted to do was increase it. I did not want to go overboard to create a situation where I'm actually getting less bids back from dealers, you know, I wanted, I did not want to damage the amount of competition and this apparently has done it, when you send out 20 – what as it – 20 packets and get 3 responses back, I think we're hurting ourselves and we're probably gonna end up paying more money for the equipment than we should have. And that is the goal here is to get the best deal for the County. Thank you.

Committee Member Call, "Uh, let me ask Mr. Hamer a quick question – this guaranteed Buy Back, is it optional? Are we bound to that or do we have a choice of sellin' it at auction rather than sellin' it back to the company?"

Mr. Hamer answered, "We did not put it as an option but I'm sure that it is a, that we could use it as an option if we want to but if we don't want to turn it back in at 5 years then that's our choice. To get that price we need to turn it back in after the 5-year period. If we don't turn it in then we out that money."

Committee Member Call said, "Right, but we're not obligated to sell it back to the company?"

Mr. Hamer replied, "Right."

Committee Member Steve Davis remarked, "After 5 years do we know in advance that we plan to purchase or sell this material back to Caterpillar?"

Mr. Hamer responded, "That was my understanding the plan from Roads & Bridges that they started last year to try to rotate this out..."

Committee Member Steve Davis said, "So even if the equipment is working sufficiently and up to par, having no problem, don't have a lot of hours on it, we will still activate the guaranteed Buy Back in?"

Mr. Hamer replied, "Yes sir, I mean, if the cost is \$155,000 and you're guaranteed a Buy Back of \$87,000, you know that's more than half the cost..."

Committee Member Steve Davis questioned, "Well why don't you just lease the equipment from them then for five years and then you don't have this problem? Do you lease this equipment?"

Mr. Hamer said, "No."

Mr. Carson said, "No, we're trying to get away from leasing it. That's part of the process is we always, in the past we've always leased equipment. Now, we are purchasing it and this is a part of that where we purchase it, take advantage of the deals that we get – local governments buy this equipment a lot cheaper than private industry – so we get a discount on the front-end and we keep it for a period of time and before it starts becoming a maintenance problem, then we sell it to the private market and then we get private market value for it. That's part of what makes this work. I remember a couple years ago, if you'll remember, we had a company in here that was looking at, that helped us, helped Water & Sanitation with deciding what pieces of equipment to get rid of, and at that time they were actually recommending – we didn't have any – but they were recommending that if you had a dump truck that you bought on state purchasing, that you could turn around and sell that 1 year later and actually sell it for more money than what you bought it for, so it's a part of a system and we're, you know, we're trying to get in to that and get away from the lease-purchase buying equipment debt and also turn the equipment over to our advantage. We, you know, it's not a perfect science, we're gonna have to develop some records on it, but that was the reason that we're proposing it and we will maintain the records and we'll be able to show whether there is in fact a savings or not."

Committee Member Steve Davis remarked, "I think that County Council is more concerned about, we had heard a presentation about standardization and we understand that Caterpillar was the leading force in that and we want to make sure that we're not creating a

pigeon-hole just to serve the purpose of get the Caterpillar, and you know, nobody else want to say that but that's what I think is the concern here on County Council, want to make sure that you haven't created an unfavorable advantage to Caterpillar when you come up in relationship to the Life Cycle Cost versus what we used to do just what was the lowest bid, the lowest bid would be the actual one we awarded, and so you've kind of altered the bid process to some extent and maybe your timing may be all bad in relationship to some of the other conversations we have had leading up to this."

Mr. Hamer said, "Well, I think we've tried to draft it pretty well similar to what they were asking for back when they asked for the sole source standardization, sole source, they were lookin' at a 5-year cycle, I mean, that's what they were presenting to Council so if Council didn't feel like the pricing, they weren't sure if the pricing was fair enough (inaudible) we've only got it from Blanchard so that's why we tried to draft it pretty close to what they was asking for originally was a 5-year cycle, plus taking other things, looking at other criteria that, to make sure that we get the best service that we can get."

Committee Member Fish said, "You know, you're exactly right. You know, y'all came to us about two months ago and wanted to sole source to Caterpillar and we thought you need to bid that to get the lowest price. Then what's happening, in my opinion, the last two bids you've extended to 41 pages, you've excluded a lot of vendors, and lo and behold with some of the arbitrary decisions you make on the 60 points – whatever it is – and the price, went right back to Caterpillar. Looks to me – to me it doesn't pass the smell test. I mean, you want Caterpillar, in my opinion it looks to me like what you've done is exclude other bidders – and you're gonna get Caterpillar no matter what you want to do."

Committee Chairman Call asked, "Any other discussion?"

Committee Member Schurlknight said, "I just have one comment. John, kind of taking off what Mr. Callanan was talking about to get more bidders to bid on this, first thing, I don't want us to cut quality on the machinery. You know, I want to buy quality machinery that's gonna move us forward at a minimum amount of cost to the County, and I'm looking at the long-run benefit, the long-range stuff that we've been working together on trying to get to that point there. To get more people to bid on this (inaudible) you know we have 3 now that's bidding on it, I think it's a good piece of equipment that won the bid, and my allegiance is trying to save the County as much money as I can, not catering to vendors to make sure they have a chance to bid on something, but we need a good sample of bids on this equipment. My question is, is there anything we can do besides compromising quality to get to these other – because I know there's standards that y'all have the equipment and y'all need to maintain those standards. You know what it goes through. Y'all work with it every day. Y'all worked with it for years, whether this equipment goes through (inaudible) landfill, Roads & Bridges, and I think we need to take note of that from y'all's experience."

Mr. Hamer said, "We went through the specs and we compared every one – we had 3 comparisons just to make sure that we had specs (inaudible) everybody can meet, we called the vendors today, I had my secretary call the vendors who had not bid to see if they were still

interested in receiving packets and all of them said 'Yes', none of them made a comment to her that we was unfair. I mean, I'd ask to go back to call them myself if I'd need to, only thing I can do is put the packets in their hand, if they want to bid, then ..."

Committee Member Schurlknight said, "My opinion is we need to set high standards for equipment and the vendors need to come up to those standards and we need to look at quality is what we need to look it. We need to look at the long-run, not the short-term fixes on the front-end."

Mr. Hamer replied, "Right."

Committee Chairman Call commented, "I don't think it's any surprise to any of us that Caterpillar was going to be the only bidder that was responsive as far as all the bid requirements that you put out there."

Mr. Hamer said, "No sir, we had 3 that was responsive. All 3 was responsive to the bid."

Committee Chairman Call replied, "All 3 were responsive? Were they all the same brand?"

Mr. Hamer responded, "No sir, we had, Caterpillar was Blanchard, we had a Barbour from ASC, and we had a Komatsu from Linder. That's 3 different manufacturers."

Committee Chairman Call asked, "What's the Committee's pleasure?"

Committee Member Fish said, "I make a motion we send it back for rebid or take a look at possibly to find out why we didn't get a bid package, maybe take a look at the 41 pages, would be my recommendation and my motion."

Mr. Hamer responded, "I'd be glad to furnish y'all the bid packets, I mean I thought y'all might have seen it 'cause Mrs. Barbara has a copy, but I'd be glad to get you a copy and let y'all look at it and make suggestions if you want to."

Committee Member Callanan said, "If I can kind of follow-up on that, I mean, would it be, since we're trying to do something a little different than what we've normally done before, would it make sense to sit down with the vendors and say, hey, here's what we're trying to accomplish but what I don't want to do is exclude, is to create a system that excludes you from bidding. I mean, and, then come up with – because I just, my problem with this is 3 bidder's is not enough to me. I don't think I'm getting a good sample here, and I know he's got a motion but I just, does that make sense to do that?"

Mr. Hamer replied, "Well, they had a time for questions. I didn't have a single bidder call me and said that I was being unfair. Not a single firm."

Committee Member Callanan said, "I don't think it's a question about being unfair, but I think the judgment of whether or not the bid package was something that they could respond to

was pretty obvious when we only got 3 bidders back. I mean, I just think with that sample I'm just not convinced we're getting the best, that we're getting the best sample to determine whether we're getting the best price, so, and if under the old system we would have gotten more bidders into the process, then I think you know, maybe we should come up with a process..."

Mr. Hamer interjected, "I mean, I sent 20 but a lot on record sell the same product so, I mean, it's only so many manufacturers that are gonna be able to provide this heavy equipment."

Committee Member Callanan said, "Okay. Well, we have a motion, I'll second his motion."

Committee Member Callanan seconded the motion to send the Best Value bid to provide an Excavator for the Berkeley County Roads & Bridges Department back for rebid.

Committee Member Schurlknight said, "Mr. Chairman, I just want to make another comment on quality. I hate to see us cut quality on this machinery."

Committee Member Call said, "I do, too. You know, we had Frank tell us that he had two pieces of equipment back there that he had to keep, one of them was to get parts off of to keep the other one running. That is not efficiency. That's not good practice to buy a piece of equipment..."

Committee Member Schurlknight said, "Right, and Mr. Chairman, you know, John stood right there and said he hadn't heard anything from other vendors saying anything was unfair, I think we got a good sampling of the 3 bidders on these 3 pieces of equipment some of those could be selling the same name brand of equipment, am I correct John, but they didn't bid on because of multiple brands, uh, the same brand of dealers? So that's gonna knock some of them out and I think what will probably knock the rest of them out was the quality control that John has put in the bid package. Thank you."

Committee Member Call inquired, "Any other discussion? Mr. Fish, would you restate that motion for me please?"

Committee Member Fish restated his motion to rebid the package - I don't know how to put that in terms of more what used to be - I guess, rebid it. I don't know - how to rebid it to be more fair.

Mr. Fish stated "You know what I'm looking for."

Mr. Hamer responded, "Well, part of the package, there's really not too much more a part of the packet is we was in is the local preference I put in. We had the old preference which had about 4 or 5 pages, then we were in the process of getting the new ones put in, so I put in the packets both preferences to say if this gets approved by this date we gonna use this, local preference had at least 8 to 9 pages just in itself, you know, so I had to add 2 sections for local preference so that was like 9 pages right there."

Committee Member Fish said, "You see, I don't feel comfortable with the way the bid is now, especially with the guaranteed Buy Back. I mean, Mr. Schurlknight keeps talking about quality - that tells me he's pre-judged that Caterpillar's the best equipment on the market period..."

Committee Member Schurlknight said, "No sir, I'm just going' on their recommendation, we talked about the equipment and how to handle it for the County for the working' man out there running it. That's what I'm basing my opinion on."

Committee Member Fish said, "(inaudible) real life you were a mechanic, but I guess..."

Committee Member Callanan said, "I think the point I was trying to make is that you're using the guaranteed Buy Back to determine the resale value of the unit and I think we should use more of a system where actually determining what the actual estimated resale value of the product is at that 5-year period versus what a guaranteed Buy Back is."

Mr. Carson commented, "Mr. Callanan, when we came before you before we brought that information to you. We provided that. The John Deere representative stood up and said well, you're sellin' it wrong. We're talkin' about being fair but to be fair you're getting information from us that apparently you're not putting a lot of faith or credit in. You have a vendor who comes in and says - who, by the way, has ..."

Committee Member Callanan interjected, "Multiple vendors, just so you know."

Mr. Carson continued, "But the one who stood up here has never been to our office to ask about what equipment we need for our operation. He's never done that. But he's called Council members and said the bid is unfair, when he's not even bid. He has no standing in the bid in that one particular case. So, and the direction we were given is, that's a good idea to look at the Life Cycle Cost, to look at what the useful life of the equipment is, what the repair cost - and there is no better way to quantify it than a guaranteed Buy Back."

Committee Member Callanan said, "Right."

Mr. Carson went on to say, "Some don't have a guaranteed Buy Back program but three of them bid, gave us a guaranteed Buy Back. Not all have a governmental discount. Some do."

Committee Member Callanan said, "Now, the issue is why is the guaranteed Buy Back the sole determination of resale value?"

Mr. Carson replied, "It's in a - this is a contract. If you wanted us to give you our advice, we gave you our advice, but if you want to put it in a contract the only way to do that is to make it a guaranty (inaudible) performance (inaudible)."

Committee Member Callanan said, "I'm saying, in your point system, when you come up with a point system, you can easily come up with a – well, probably not as easy but since we want to make this a Total Life Cycle bid, you can come up with what you determine the resale value of a particular vendor is. I think these guaranty Buy Backs are completely skewed because there's only one company that really offers it as a standard policy to have a Buy Back..."

Mr. Carson responded, "But to give it points, everything – when you have the points – then someone said 'that's arbitrary', so now you're suggesting to put a cost, a residual cost in to the arbitrary side of the equation, and what we're tryin' to do is make it contractual in a fixed amount. He has to guaranty that. He has to give us a performance bond. Otherwise if we just put it in there and no performance bond, the vendor says 'I'll sell it for \$150,000 and buy it back for 130' and if there's no guaranty, there's no performance bond, it doesn't mean anything, and so what John has done, which other entities have done, is make that part of the contractual obligation. That's all he's tryin' to do. It's not arbitrary, it's not somebody's opinion..."

Committee Member Callanan remarked, "But the point is, if they're the only one that actually has a corporate policy program in place, then it gives them an unfair advantage."

Mr. Carson said, "We don't know that."

Committee Member Callanan responded, "My point is, I think what speaks the most volumes to me is the fact that we only got 3 responses."

Mr. Carson replied, "That's not unusual for a specialized piece of equipment."

Committee Member Callanan said, "I'd asked the question earlier that if we ..."

Mr. Carson interjected, "If we have 22 vendors, we don't know..."

Committee Member Callanan said, "Okay, okay, I can't be interrupted, okay. I'm gonna let you speak and you let me speak..."

Mr. Carson responded, "Yes, sir."

Committee Member Callanan said, "The issue here is that we're gonna have a situation where – and I asked John this, I said – had we not gone through this entire process of Total Life Cycle, how many under the old process, would we have gotten more bids back. His answer was, 'Yes, more than likely, yes' so if that's the case then this process is actually chasing potential bidders away and I don't want that, that's all I'm trying to say. I'm not making the accusation that this is skewed towards any one particular vendor. What I am saying is that I don't think that this creates a system that's going to provide the least expensive piece of equipment to the County. That is my concern, and I think that is exemplified by the fact that we've gotten less bidders this time than we would have under the old system. I want to implement the new controls with regards to Total Life Cycle bidding, but I do not want to have the negative drawback of that,

the penalty of that, of less people bidding for it, and that's all I'm saying. So, if you want to respond, you go right ahead."

Mr. Carson replied, "This process has given three manufacturers – very quality manufacturers – they bid competitively. I don't think you can judge the quality of a bid package by the number of bidders there are. If they can't meet the specifications to do the job then they don't meet the specifications. If you lessen any other specification just to get competition, the County is not served by that.

Committee Member Callanan asked, "Is there anyone from any – from anyone who bid on this – I guess either ASC or Linder here? Nope?"

"I'm here representing ASC.", (name inaudible.)

Committee Member Callanan said, "Can we just ask him a question? And you're?"

Committee Member Schurlknight remarked, "(inaudible) up to the Chairman."

Committee Member Callanan said, "I mean, it's up to you but I mean, if, without objection, can we ask this gentleman the question we have? If we have one objection, we can't. So if anyone – if someone objects to it, they can object to it."

Committee Chairman Call commented, "Mr. Callanan, we have a motion and a second..."

Committee Member Callanan responded, "Okay...that's fine, if we have a motion and a second, that's fine."

Committee Chairman Call said, "We can vote on that and then..."

Berkeley County Attorney Nicole Ewing stated, "Mr. Callanan, before you call for the vote, the motion as stated in my opinion, my legal opinion, is ambiguous. It's hard to determine what is "fair" unless Council sets some parameters on that. I would submit that staff probably feels that they've submitted a fair recommendation to you and a fair bid package now, so I would ask that there be some clarification...my recommendation would be that there be some clarification as to how the bid package should be rewritten to be "fair" because as the motion stands, there's just no guidance to give staff."

Committee Chairman Call said, "And that's what I asked Mr. Fish for. Do you understand what she's asked you for, Mr. Fish? Would you care to address that?"

Committee Member Fish replied, "I think simply my motion is to send it back to be rebid, to be back to be rebid to allow more vendors to bid on the package. Now, I don't know how you do that to get them to bid more except what you just talked about was that in the past there were more bidders, you said, you know, I'd like us maybe put this on hold, you know, let us see the

bid package. You know, before – you can spec that bid – if your spec was to Caterpillar then I would expect Caterpillar to get the bid. We don't know that. We didn't see the bid package. I just, I don't feel comfortable..."

Mr. Hamer remarked, "I did not spec Cat. We took comparison with 3 vendors and looked at those specs and said can this vendor meet this spec and we pretty well, I didn't have many exception to the specifications and the couple of exceptions I felt like was really not exceptions so all 3 vendors met the specifications that bid on this package here. I've said all (inaudible) responsive, I wouldn't consider none of them non-responsive. The 3 that bid was responsive, they were (inaudible) ranked one, then I would recommend that."

Committee Member Fish stated, "Madame Attorney, what I need maybe is to amend my motion to say I just deny the bid."

Committee Chairman Call commented, "Mr. Callanan, and you seconded it (audible), does this answer your question or would you still like to hear from those vendors that are present?"

Committee Member Callanan responded, "To move things along, I'll just second his motion to deny it for rebid."

Berkeley County Attorney Nicole Ewing stated, "The proper procedure would be to withdraw your second, then Mr. Fish can withdraw his motion, and then make a new motion, and then have a new second, I believe, is the correct procedure."

Committee Member Callanan said, "Okay, right. That's correct. I withdraw my second for Mr. Fish's first motion."

Committee Member Fish said, "I withdraw my original motion and reamend that I just make a motion to deny the bid."

Committee Member Fish moved and Committee member Callanan seconded the motion to deny the Best Value bid to provide an Excavator for the Berkeley County Roads & Bridges Department. The motion passed by majority vote of the Committee. Committee member Caldwell Pinckney and Committee member Jack Schurlnknight voted "Nay".

**B. Mr. Micah Miley, Director of Engineering, Re: US Hwy 17-A Water Main Relocation, Phase 2.**

Chairman Call began by saying, "Next on the agenda if Mr. Micah Miley. Micah asked me before the meeting, he said he's getting a step ahead of himself with this item and would like to carry it over but I asked him to be here in case anybody wants to ask him any questions about why it's being carried over. This is in relation to 17-A Water Main Relocation. Anybody have anything they want to know?"

Committee member Fish asked, "I have one question for him. You probably don't know the answer. I just am amazed at the low bid being at 491 and the high bid being at one and a half million. That's a huge spread."

Mr. Miley responded, "We were astonished as well. The low bidder was there. He said he's bidding to keep his company working, it's a family owned company, not really looking for profit, lookin' to make payroll and keep his family employed."

Committee member Fish responded, "Makes sense to me."

Committee member Callanan said, "Rock on."

Mr. Miley continued, "We were very concerned any time we see that kind of spread we check references, we've done everything. We are prepared to award to him next month it's just that we need to follow DOT. They haven't begun construction so we would be ahead of ourself if we awarded now."

Committee member Callanan said, "And the bids will still stay good for that period or would we have to redo 'em?"

Mr. Miley replied, "They are good for 90 days..."

Committee member Callanan said, "Oh good."

Mr. Miley continued, "Next month we will know more definite information about when DOT will get started, whether we can award at that time."

Committee member Farley said, "Micah, is this figure bonded?"

Mr. Miley responded, "This figure is bonded for 90-days from the 3<sup>rd</sup> of December so we're good until March. We'll have to award this out of February to make the bonding."

Committee member Farley said, "Okay."

Chairman Call said, "We'll carry that over and if you will, make sure the Clerk gets that on the agenda."

Mr. Miley said, "Yes, sir."

Chairman Call responded, "Thank you."

**C. Mr. Frank Carson, Berkeley County Engineer, Re: Berkeley County/SCDOT Intergovernmental Agreement 1-26 Widening and Sheep Island Parkway Interchange.**

Mr. Carson began, "Thank you Mr. Chairman. In July County Council approved the Intergovernmental Agreement that had been provided to us by DOT. We returned that signed document to them in August and were, when we inquired as to why we'd not gotten a signed copy back from them, they informed us that there were a couple changes they wanted to make to update it to be consistent with the form they were now using. The changes highlighted in your package, they mainly deal with two issues. The one is under the Construction of Projects there's less specific language about when the department would take over the maintenance of any projects that they were intending to. My personal ... I don't particularly like that provision but I understand why they want it that way. The other has to do with what is called the Local Participating Agency Agreements and the language has been changed in the Certification of the Department and also the Certification of the County that we would comply with that. I don't particularly take issue with that, that's what they're doing now to make sure projects are consistent with Federal process and those certifications are there for that purpose.

It was moved by Committee Member Fish and seconded by Committee Member Steve Davis to **approve the SCDOT Intergovernmental Agreement for the I-26 Widening and Sheep Island Parkway Interchange.** The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Callanan and seconded by Committee Member Steve Davis to **adjourn** the Committee on Public Works and Purchasing meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 7:54 pm.

January 11, 2010

Date Approved

**PUBLIC WORKS AND PURCHASING**  
(Standing Committee of Berkeley County Council)

Chairman: Mr. Robert O. Call, Jr., District No. 3

Members: Mr. Phillip Farley, District No. 1  
Mr. Timothy J. Callanan, District No. 2  
Mrs. Cathy S. Davis, District No. 4  
Mr. Dennis Fish, District No. 5  
Mr. Jack H. Schurlknight, District No. 6  
Mr. Caldwell Pinckney, Jr., District No. 7  
Mr. Steve C. Davis, District No. 8  
Mr. Daniel W. Davis, Supervisor, ex officio

A meeting of the **COMMITTEE ON PUBLIC WORKS AND PURCHASING**, Standing Committee of Berkeley County Council, will be held following the meetings of the Committees on Water and Sanitation, Planning and Development, and Justice and Public Safety on **Monday December 14, 2009, at 6:00 p.m.**, in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

**AGENDA**

**APPROVAL OF MINUTES**

**November 9, 2009**

**November 23, 2009**

**A. Mr. John F. Hamer, CPPB, Director of Procurement**, Re: Best Value bid to provide an Excavator for the Berkeley County Roads and Bridges Department.

**B. Mr. Micah Miley, Director of Engineering**, Re: US Hwy 17-A Water Main Relocation, Phase 2.

**C. Mr. Frank Carson, Berkeley County Engineer**, Re: Berkeley County/SCDOT Intergovernmental Agreement 1-26 Widening and Sheep Island Parkway Interchange.

December 9, 2009  
S/Barbara B. Austin, CCC  
Clerk of County Council